

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMELIA SAPPHIRE, individually and as
class representative,)
Plaintiff,) NO. 2:22-cv-01795-JCC
vs.)
FRED MEYER STORES, INC.,)
Defendant.)
)

Pursuant to Federal Rule of Civil Procedure 26(f), Local Civil Rule 16, and the Court’s Order Regarding Initial Disclosures and Joint Status Report (Dkt. 7), Plaintiff Amelia Sapphire (“Plaintiff”) and Defendant Fred Meyer Stores, Inc. (“Defendant”) (collectively, “the Parties”), through undersigned counsel, submit this Joint Status Report and Discovery Plan.

1. Nature and Complexity of the Case

This case is a class action wage matter seeking relief under Washington wage laws in connection with Defendant's alleged faulty implementation of a new payroll system. Due to the technical nature of the payroll transition, the many employees affected, and that wage records are

1 often voluminous, the Parties anticipate substantial documents to be exchanged in the course of
2 discovery. For these reasons, the case is likely to be factually complex.

3 **2. Proposed Deadline for Joining Additional Parties and Amending Pleadings**

4 The parties propose May 2, 2023 as the deadline to join additional parties and July 10, 2023
5 as the deadline by which to amend the pleadings.

6 **3. No Consent to Assignment of Case to a Magistrate Judge**

7 The Parties do not consent to the assignment of this case to a U.S. Magistrate Judge.

8 **4. Discovery Plan**

9 Counsel for the Parties participated in a Rule 26(f) conference via telephone conference on
10 February 1, 2023.

11 **a. Initial Disclosures**

12 As set by the Court, the Parties will exchange their initial Rule 26(a)(1) disclosures on or
13 before February 8, 2023. *See Dkt. 7.*

14 **b. Subjects, Timing, and Potential Phasing of Discovery**

15 The Parties expect to exchange discovery regarding the claims and defenses in the case. At
16 present, the Parties do not believe that a general bifurcation of discovery is necessary. Defendant,
17 however, reserves and does not waive any objections to timing and potential phasing of specific or
18 individualized discovery issues that may arise. The Parties agree that discovery will be conducted
19 pursuant to the Federal Rules of Civil Procedure and the Local Civil Rules. Should any discovery
20 complications arise, the Parties will make good faith efforts to resolve the issues prior to seeking
21 Court intervention.

22 **c. Electronically Stored Information (“ESI”)**

23 The Parties plan to collect and produce ESI, as necessary, and do not anticipate significant
24 issues regarding the disclosure or discovery of ESI at this time.

1 **d. Privilege Issues**

2 The Parties do not anticipate any unique or specific privilege concerns with this case
3 beyond customary attorney-client privilege and work product protection issues.

4 **e. Proposed Limitations on Discovery**

5 The Parties do not currently see a need to change the discovery limitations imposed by the
6 Federal Rules of Civil Procedure and the Local Rules for the Western District of Washington. If
7 the Parties determine at a later date that discovery limitations should be adjusted, the Parties may
8 stipulate to adjusted limitations or seek Court approval in the event agreement cannot be reached.

9 **f. Need for Discovery-Related Orders**

10 The Parties anticipate entering into a stipulated protective order based on the W.D.
11 Washington model order, to be presented to the Court.

12 **5. Matters to be Addressed Pursuant to LCR 26(f)(1)**

13 The following constitute the Parties' views, proposals, and agreements pursuant to Local
14 Civil Rule 26(f)(1).

15 **a. Prompt Case Resolution**

16 The Parties have not yet engaged in early resolution discussions but are willing to consider
17 the possibility as additional facts become known in discovery.

18 **b. Alternative Dispute Resolution (ADR)**

19 The Parties have not yet engaged in ADR discussions but are willing to consider the
20 possibility of mediation in the future as additional facts become known in discovery.

21 **c. Related Cases**

22 Defendant at the time of removal filed a Notice of Pendency of Other Action
23 citing *Samantha Woody et al. v. Fred Meyer Stores, Inc.*, USDC Case No. 3:22-cv-01800-HZ,
24 currently pending before Honorable Marco A. Hernandez in the United States District Court for
25 the District of Oregon. The plaintiffs in that matter, like Plaintiff in this case, allege that Defendant

1 violated wage laws in connection with the faulty implementation of a new payroll system.
2 However, because the plaintiffs in that matter seek relief under Oregon wage laws, the Parties
3 agree that the cases are not related as defined by Local Civil Rule 3(g). Further, because the claims
4 rely on entirely different legal standards and are likely to have different issues in dispute—
5 including a pending motion to remand in this case—Plaintiff opposes transfer of this case and does
6 not believe that coordination between the actions might avoid conflicts, conserve resources or
7 promote an efficient determination of the action.

8 **d. Discovery Management**

9 The Parties agree to service of discovery requests and responses by email pursuant to Fed.
10 R. Civ. P. 5(b)(2)(E). The parties anticipate entering into a formal electronic service agreement.
11 The Parties will meet and confer in good faith regarding disagreements, if any, and will seek Court
12 intervention as needed in accordance with the Federal Rules of Civil Procedure and the Local Civil
13 Rules.

14 **e. Anticipated Discovery Sought**

15 The Parties expect to exchange written discovery on issues related to the claims and
16 defenses in the case, and to take depositions as needed.

17 **f. Phasing of Motions**

18 The Parties at this time do not believe that phasing of motions is necessary in this case.

19 **g. Preservation of Discoverable Information**

20 Counsel have instructed their respective client to preserve potentially discoverable
21 information.

22 **h. Inadvertent Waiver or Production of Privileged Information**

23 The Parties anticipate addressing these topics in a stipulated protective order.

1 **i. Model Protocol for Discovery of ESI**

2 The Parties will work cooperatively to enter into an agreement, if necessary. The Parties
3 anticipate the agreement, if necessary, would be based on the W.D. Washington model protocol
4 with mutually-agreeable modifications.

5 **j. Alternatives to Model Protocol**

6 None expected at this time.

7 **k. Date upon which the plaintiffs shall move for a determination under
8 Fed. R. Civ. P. 23(c)(1), as to whether the case is to be maintained as a
class action, and an appropriate briefing schedule for the motion.**

9 **Deadline to file Motion:** November 6, 2023

10 **Notation:** December 4, 2023

11 **Response:** November 27, 2023

12 **Reply:** December 4, 2023

13 **6. Patent Challenges**

14 Not applicable.

15 **7. Completion of Discovery**

16 October 2, 2023.

17 **8. Bifurcation**

18 The Parties do not believe that bifurcation is necessary at this time.

19 **9. Dispensing with Pretrial Statements / Order Required by LCR 16 & 16.1**

20 The Parties do not believe the pretrial statements and pretrial order called for by Local Civil
21 Rules 16(e), (h), (i), and (l), and 16.1 should be dispensed with.

22 **10. Individualized Trial Program / ADR Options Pursuant to LCR 39.1 & 39.2**

23 The Parties presently do not intend to utilize the Individualized Trial Program set forth in
24 LCR 39.2 or any of the ADR options set forth in LCR 39.1. If the Parties determine at a later date
25 that participation in either is necessary or advisable, the parties may stipulate to such participation.

1 **11. Other Suggestions for Shortening or Simplifying the Case**

2 At this time, the Parties do not have other suggestions for simplifying or shortening the
case.

3 **12. Proposed Trial Date**

4 The parties ask the Court to schedule a trial date after the Court's decision on Plaintiff's
Motion for Class Certification.

5 **13. Jury / Bench Trial**

6 Neither party has filed a jury demand.

7 **14. Number of Trial Days Required**

8 The parties anticipate trial will require two weeks (ten days).

9 **15. Names & Contact Information for Trial Counsel**

10 Plaintiff's trial counsels are Richard B. Myers of Bennett Hartman, LLP, located at 210
11 SW Morrison St., Portland, OR 97204; phone: (503) 546-9623; and Damian Mendez of Mendez
12 Law Group PLLC, located at 3317 36th Avenue S., Unit B, Seattle, WA 98144; phone: (206) 290-
13 5148; fax: (206) 260-9010. Plaintiff's counsels' email addresses are: richard@bennetthartman.com
14 and damian@damianmendezlaw.com, respectively.

15 Defendant's trial counsel are Dennis Westlind, Jessica Osborne, and Ed Choi of Bullard
16 Law, located at 200 SW Market Street, Suite 1950, Portland, OR 97201; phone: (503) 248-1134;
17 fax: (503) 224-8851. Defendant's counsel's email addresses are: dwestlind@bullardlaw.com,
18 josborne@bullardlaw.com, and echoi@bullardlaw.com, respectively.

19 **16. Trial Date Conflicts of Counsel**

20 Counsel for Defendant has a conflicting trial beginning on September 28, 2023. Counsel
21 for Plaintiff has conflicting trials beginning on November 23, 2023, and November 6, 2023.

22 **17. Status of Service & Jurisdictional Issues**

23 Service is complete.

1 **18. Scheduling Conference**

2 The Parties do not request a scheduling conference at this time.

3 **19. Corporate Disclosure Statements**

4 Defendant Fred Meyer Stores, Inc. filed its Corporate Disclosure Statement December 23,
5 2022. *See* Dkt. 10.

6 **20. Certification of Review of Chamber Procedures, Local Rules, and Electronic
7 Filing Procedures**

8 The Parties certify that counsel have reviewed and complied with Judge Coughenour's
9 chambers procedures, the Local Rules, and the applicable Electronic Filing Procedures.

10 **21. Certification of Review and Compliance with Canon**

11 The parties certify that all counsel have reviewed and complied with Canon 3(C)(1)(b) of
12 the Code of Conduct for United States Judges.

13 DATED this 15th day of February, 2023.

15 *Attorneys for Plaintiff*
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CERTIFICATE OF SERVICE

The undersigned certified under penalty of perjury under the laws of the State of Washington that on the date below indicated I electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such to those attorneys of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure

DATED this 15th day of February, 2023.

MENDEZ LAW GROUP, PLLC

/s/ Damian S. Mendez

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